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| TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i> | Application Number | 09/202,838 |
| | Filing Date | 1/21/2001 |
| | First Named Inventor | Verdaguer |
| | Group Art Unit | 1631 |
| | Examiner Name | S. Zhou |
| Total Number of Pages in This Submission | Attorney Docket Number | TSRI 504.1 |

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| ENCLOSURES (check all that apply) | | |
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| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | |
|--|--------------|
| Firm or Individual name | Emily Holmes |
| Signature | |
| Date | 7/27/2001 |

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| Typed or printed name | Ariel Fletcher | |
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I hereby certify that this RESPONSE TO RESTRICTION REQUIREMENT and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date indicated below with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Ariel Fletcher
Ariel Fletcher

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#12
Plunkett
8/1/9

Applicant: Verdaguer, et al.)
Serial No.: 09/202,838) Group Art Unit: 1631
Filed: January 21, 2000) Examiner: S. Zhou
Title: CASSAVA VEIN MOSAIC VIRUS)
PROMOTERS AND USES THEREOF) Our Ref.: TSRI 504.1

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This communication is in response to the Restriction Requirement mailed June 27, 2001 (Paper No. 11). The response is filed within the extension-free period thus making this response a timely filing.

The Examiner has indicated in the Action that pending claims 1-15 comprise four different groups of inventions for purposes of examination. The Examiner argues that the separate groups are required because the polynucleotide sequence claimed in Group I is not novel over a published GenBank sequence of the complete nucleotide sequence of Cassava vein mosaic virus (CaMV). Applicants respectfully traverse the Restriction Requirement and submit that the restriction on this basis is not proper as the invention claimed in Group I is novel, is generic in scope and provides the special technical feature linking the four described groups. Applicants further submit that the Examiner is incorrect

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July 25, 2001

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in stating that the promoter sequence as presently generically claimed is not novel in view of the GenBank sequence. Applicants, however, defer any argument on the basis of novelty until an appropriate response to a PTO Action where statutory rejections to claims are made. For the present Action, Applicants contend that a more appropriate grouping of inventions is to define the claims as one group with a requirement to elect a species of CaMV promoter in the event that the generic claims are not held to be allowable.

However, in view of the present restriction by the Examiner and to be responsive to the present restriction, Applicants elect, with traverse, group I as it is currently defined that includes claims 1-9 having a CaMV promoter sequence as defined in claim 1.

The Examiner has also indicated that if one of groups I-IV is elected, Applicants are required to elect a species of a particular promoter sequence. In the event that the generic claim is not held to be allowable, Applicants elect the species of pA (SEQ ID NO 3).

Please enter the above-identified response to Restriction Requirement.

Respectfully submitted,

July 27, 2001
Date

Emily Holmes
Emily Holmes, Reg. No. 40,652

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